



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 18, 2022
MOAHR Docket No.: 22-001033
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 14, 2022. The Petitioner appeared and was represented by his partner and Authorized Hearing Representative (AHR), ██████████. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the MDHHS.

Petitioner agreed to admission of the documents MDHHS submitted for the hearing were admitted into evidence as Exhibit A.

ISSUE

Did MDHHS properly deny Petitioner's State Emergency Relief (SER) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ 2021, Petitioner submitted an application for SER for assistance with paying his DTE electricity and gas bill.
2. On an unknown date, Petitioner's ██████████ 2021 SER application was denied.
3. On ██████████ 2022, Petitioner submitted an application for SER for assistance with paying his DTE electricity and gas bill.
4. Petitioner's partner, the AHR, is employed with the City of Detroit (Employer). The household has no other income.

5. On [REDACTED] 2022, MDHHS issued a SER Decision Notice stating that Petitioner's SER application was denied due to excess income (Exhibit A, pp. 5-7).
6. On March 8, 2022, MDHHS received Petitioner's hearing request disputing the denial of his SER application (Exhibit A, pp. 3-4).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner disputes the denial of his SER application submitted on [REDACTED] 2022, due to excess income.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

Client applied for SER on [REDACTED] 2021 for heat and electric. Client reported on the application that the AHR is employed with Employer 40 hours per week at \$[REDACTED] per hour. The reported income was a discrepancy from the application turned in the previous month so an attempt to reach the client to clarify was made on November 16, 2022. The specialist was unable to reach the client for an interview, so a SER determination was completed, and the client's monthly countable income was budgeted as \$[REDACTED] which exceeds the \$500 income limit by \$[REDACTED] exceeding the amount of that was requested \$2,178.00.

MDHHS prepared a budget to determine Petitioner's eligibility as of Petitioner's [REDACTED] 2021 application (see Exhibit A, pp. 10-11). However, Petitioner is not disputing the denial of the [REDACTED] 2021, but requested a hearing regarding the denial of the SER application submitted [REDACTED] 2022. Since MDHHS did not present any evidence regarding the [REDACTED] 2022 application, MDHHS has failed to satisfy its burden of showing that it acted in accordance with policy when denying Petitioner's SER application.

Additionally, Petitioner disputes the denial of any SER application due to excess income. SER group members must use their available income and cash assets that will help resolve the emergency. MDHHS is responsible for verifying information, certifying the eligibility results and authorizing the SER payment. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy for the number of group members. If the income exceeds the limit, the SER request must be denied. ERM 208 (October 2018), p. 1. In calculating Petitioner's household income, MDHHS did not seek verification of employment or income, but rather calculated the income amount based upon a regular 40-hour work week times the hourly rate of pay as reported in a prior application (see Exhibit A, p. 9). Petitioner disputes this income amount, testifying that the AHR has not worked a full 40 hours per week in many months and therefore, MDHHS' calculation is not indicative of the actual household income. Since MDHHS was required to seek verification of actual income and did not, MDHHS has failed to act in accordance with policy in determining Petitioner's eligibility for SER. Additionally, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating Petitioner's household budget.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2022 SER application.

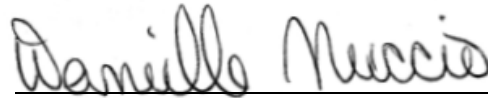
DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Petitioner's [REDACTED] 2022 SER application, seeking verification of the household income in accordance with policy;

2. Notify Petitioner of its decision in writing.



DN/mp

Danielle Nuccio
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Email Recipients:

MDHHS-Wayne-19-Hearings
E. Holzhausen
MOAHR
T. Bair
BSC4

First-Class Mail Recipients:

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]